

MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force

FROM: Gerald Mueller, Project Coordinator

SUBJECT: Summary of April 7, 2003 Meeting

DATE: November 22, 2005

Participants

The following members of the Task Force were present:

Task Force Members:

Harvey Hackett	Bitterroot Water Forum
Fred Lurie	Blackfoot Challenge
Jay Stuckey	Lower Clark Fork
Elna Darrow	Flathead Basin Commission
Steve Fry	Avista Corp
Phil Tourangeau	Confederated Salish and Kootenai Tribes
J. Gail Patton	Sanders County.
Marc M. Spratt	Flathead Conservation District
Eugene Manley	Granite County
Matt Clifford	Clark Fork Coalition

Staff:

Gerald Mueller	Montana Consensus Council (MCC)
Mike McLane	Montana Department of Natural Resources and Conservation (DNRC)

Meeting Goals

1. Review Orderly Development Options
2. Brainstorm Options for Conserving Water
3. Review Chapters 1-7
4. Review Budget

Review of March 3, 2003 Meeting Summary

No changes were made to the summary. Gail Patton requested that a hard copy of the summary be mailed to him.

Discussion: New Legislation

HB 720 - Mike McLane passed out copies of three documents related to HB 720: a memo from the Task Force to the Senate Committee on Agriculture, Livestock and Irrigation; testimony given to this Committee by Mike McLane on behalf of the Task Force; and a copy of the text of HB 720 as of April 1, 2003. Mr. Mueller noted that the Committee amended the bill

in a manner consistent with the Task Force's testimony.
Mike McLane also passed out a copies of SB 416, SB 683, and SB 194.

SB 416 - This bill would suspend the permit and change requirements of current law on the Reservation of the Confederated Salish and Kootenai Tribes. Mr. McLane noted that while the bill passed the House, the Senate has not yet scheduled a hearing on it, and the bill may be dead. (This bill was tabled on April 7.)

SB 683 - This bill allowed appropriators to change a right without the prior approval of the DNRC for the purpose of constructing a redundant water supply well in a public water system. This bill has been signed into law by Governor Martz.

SB 194 - This bill authorizes interim agreements to provide for joint tribal and state administration of new water uses on a reservation pending final adjudication of tribal reserved water rights. It has been returned to the House with Senate amendments.

Discussion: Potential Management Plan Issue

A Task Force member stated that sub-division growth in the Bitterroot Valley is increasing the nutrient loading of the Bitterroot River and causing algae growth. Because of the application of end-of-pipe mixing zones this increased nutrient loading is apparently not violating federal water quality standards. Another member noted that many water bodies in western Montana have very low existing levels of nutrients so that additional nutrient loading may cause significant changes. The state has been resistant to applying new technology in water quality regulation. Also, it has been difficult to engage in state rule making concerning storm water run off. *The Task Force agreed that an issue for the management plan is the adequacy of existing water quality standards for water bodies with very low nutrient loading.* It further agreed that representatives of the Montana Department of Environmental Quality and the United States Forest Service (USFS) should be invited to the next Task Force meeting to discuss water quality standards and the USFS approach to water quality/quantity baseline before and after timber management activities.

Discussion: Options to Address the Orderly Development of Water

The Task Force members agreed to the following definition of orderly development of water:

Orderly development of water means a process to quantify physically available water and provide for its use by the various competing existing and futures uses.

Task Force members asked that current activities be categorized in terms of water quantity and quality. Those in the quality category include:

- EPA has required a shift from surface to groundwater for municipal water supplies.
- The Flathead Basin Commission has developed a TMDL for Flathead Lake.
- Counties and cities are managing flood plains.
- Water quality districts have been formed in some areas.

The members also asked that the future options for the orderly development of water that might be implemented be categorized in terms of regulatory actions, management/best management

practices, and research and education. Also, the members requested that a section be included in the management plan for recommendations, including law changes such as establishing a water market and providing funding for education.

Finally, one of the bullets under Group #1 A was changed to read:

- Dam operational requirements have been established through FERC hydropower licenses.

Options for Conserving Water

Task Force members defined conservation to mean the long-term, sustainable use of water resources. They then identified the following current activities related to water conservation in their watersheds or sub-basins and future alternatives for conserving water:

Current Activities for Promoting Water Conservation in Watersheds/sub-basins

- Water rights can be bought and sold and leased
- The most recent farm bill provides funding for irrigation efficiency improvements
- User-driven management based on experience
- Existing use efficiency guidelines/standards such as 1 inch per acre water duty in water rights

Current Activities Detrimental to Water Conservation in Watersheds/sub-basins

- Some conversions of flood irrigation to sprinkler
- Use of salvage may be increasing water use

Future Alternative Activities for Conservation of Water

- Measure water uses/diversions
- Limit diversions to only what is needed for the beneficial use
- Create the infrastructure within DNRC to better handle and manage water data
- Evaluate and regulate the use of water in ponds, i.e. determine the effect of ponds on water quantity and if pond would constitute a beneficial use
- Store available, unneeded water
- Educate people about ways to conserve water
- Determine ways to conserve water and quantify the potential volumes
- Develop incentives for efficient use
- Know what you are doing when you are using water
- Improve water conveyance efficiency
- Develop basin water management and drought plans
- All new water permits and change authorizations should require measurement of water use
- The Forest Service should be accountable for water yield in forest management
- **Preliminary Water Management Plan Documents** Gerald Mueller passed out copies of preliminary chapters 1, 4, 5, 6, and 7 in the water management plan, and a table of contents. Comments from individual Task Force members follow.

Table of Contents Chapters 7, 8, and 9 should have three major subdivisions: existing watershed/sub-basin actions, alternative future actions, and recommendations.

- The sub-headings diversionary (agriculture, municipal, and residential) and non-diversionary (hydropower and instream flow for fishery resources) should be included in chapters 7, 8, and 9.
- A chapter 10, conclusions and recommendations, should be added.
- A bibliography should be added at the end of each chapter.
- In the appendix on the situation assessment, either the document should be modified to reflect Task Force member comments or the comments themselves should be attached with the assessment.

An appendix of supporting documents should be included.Chapter 5 - Legal and Regulatory Constraints to Water ManagementThe item on the Milltown Dam FERC license and Superfund Site is not a constraint on water management and should be deleted.The items on the Painted Rocks and Lake Como water contracts and on the instream flow claim should not be singled out for treatment different from other water contracts and water right claims.**Clark Fork Basin Water Management Plan Budget**Mike McLane reported that the DNRC will not be able to contribute additional staff resources to developing the plan. Also, Resource Indemnity Trust funds appropriated by the legislature during the 2001 session to the Task Force will have to be encumbered by the end of this fiscal year to assure their availability through September 2004. Mr. McLane stated that a contract between DNRC and the Consensus Council would probably be adequate to do so. Finally, Task Force members agreed that money should be set aside for a public outreach activity regarding the management plan, including public meetings and publishing the plan document. One member estimated that \$25 thousand should be allocated to develop the basin profiles and \$16 thousand for the public outreach.**Next Steps Preliminary Water Management Plan Documents**

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Next Steps

The agenda for the next meeting will include:

1. Review the work on the third issue outlined in HB 397, conservation of water.
2. A presentation by Holly Franz of PPL Montana on the Kerr and Thompson Falls Dams at the next meeting: (1) how often, if at all, does PPL need to make a call on the river to satisfy their water rights; and (2) how, if at all, will PPL's existing water rights at Kerr and Thompson Falls Dam limit future consumptive uses of water in the Clark Fork basin.
3. A spokesperson from DEQ will be invited to discuss water quality standards, and in particular their application to water bodies with very low nutrient concentrations.
4. A spokesperson from the USFS will be invited to discuss the agency's approach to water quality/quantity baseline before and after timber management activities.
5. Task Force members will discuss the public outreach associated with development of the water management plan, and particularly how many public meetings would be needed in each sub-basin.
6. The Consensus Council and DNRC will discuss encumbering the RIT funds allocated by the legislature to this project through preparation of the management plan in September 2004.

The Consensus Council will continue drafting preliminary chapters of the water management plan.

Next Meeting

The next meeting will be held on **May 5** at the **Fish, Wildlife and Parks Headquarters at 3201 Spurgin Road in Missoula**, from **9:00 a.m. to 4:00 p.m.** A meeting agenda will be sent prior to

the meeting.